

## Factors Affecting Goods and Currency Smuggling in the Draft Bill to Combat Goods and Currency Smuggling

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### Abstract

Goods and currency smuggling not only hurts government's supporting objectives but also causes to lose the effects of government's tariff and non-tariff policies. While the smugglers do not pay the government right, it leads to reducing investment in the industry, reducing the volume of manufacturing activities in the country and finally reducing the employment. Since the world customs, as the most important executives in foreign trade regulations and key ring of international trade supply chain, are the only organizations responsible to evaluate and monitor the movement of goods crossing the borders they play roles in the context of their objectives and assigned tasks. In order to facilitate foreign trade while applying control regulations, measures to harmonize the customs procedures and systems are essential and indispensable. Factors and processes affecting the customs functions, the atmosphere in which the customs work, and finally, the custom's approach and interaction with these factors and conditions are the issues that form the investigation of operational environment. In a general classification, the causes of smuggling are divided into three economic, political, and cultural - social categories each of them having consequences and solutions to handle. Today, the phenomenon of smuggling is so important that any government needs to make decisions for the effective monitoring of this phenomenon. Accordingly, some certain rules must be legislated in order to reduce any risk in this field and stop smugglers. In 1927 and perhaps earlier, in this field some rules have been legislated in Iran but always met the shortcomings. In order to overcome these shortcomings, the rules to combat goods and currency smuggling were legislated in 2013 and approved by Guardian Council. It is hoped to take serious steps to deal with smuggling by the rules.

**Keywords:** Customs agencies, customs goods, currency smuggling, international trade, criminal prevention

### Introduction

Iranian customs as one of the most experienced public organizations and also the border guards of the country have an important role in the implementation of policies and economic - commercial policies. Iranian customs, due to the acceleration of globalization and recent developments in national and international level in the area of commercial relations and the need to move towards electronic customs have tried to regulate their goals, resources, procedures, programs and mechanisms in order to meet people's satisfaction with the rapid flow of economic growth and global communications, in accordance with development plans and Iran's 20-year vision plan. The role and importance of the customs in the country can be briefly stated as follows:

Customs as a bridge between financial and business policies and the most influential organization in the international trade are considered with specific importance and sensitivity.

Therefore the implementation of these policies requires efficient and effective customs. The implementation of national and international obligations in order to protect the community against hazardous and radioactive goods and substances, cultural, health, and environmental protections, obeying national standards, economic health protection, and legal business through the fight against goods smuggling and drug trafficking, helping to fight national organized crime, combating terrorism and money laundering influence other traditional duties like incoming. Smuggling in the country indicates an imbalance in the domestic economy, mismatch between supply and demand in the country, reducing the production and supply of goods and increasing their prices and lack of the required quality in national manufactured products in comparison to the same foreign products lead the demand to foreign goods and makes the production and the domestic economy weak. Profit-seeking motive, according to the difference in price and quality of imported products than domestic products and failure to meet the demand in the economy with such a situation is completely normal, especially if there is the chronic unemployment, economic and cultural poverty, especially in border areas.

According to some statistics, the rate of smuggled goods imported to the country is estimated to be about twenty billion dollars which is a heavy hit to the production and employment. High source of tariffs on goods and strict regulations and formalities give more justification for importing the goods informally. One of the main reasons that enhance the benefits of smugglers is to keep the exchange rate fixed in a decade. It is clear that goods smuggling is quite economical and the economic tools and related mechanisms should be utilized more in order to deal with it. The correct policies and proper implementation are the requirements to fight smuggling. Basic strategies in this regard lead to restructuring of the state economy, strengthening the private sector, determining the optimal exchange rate, reducing tariff rates and modifying some laws, removing some specific exemptions that causes rents in society and provide causes to abuse. Modifying the consumption patterns and supporting the lives of the personnel in the organizations, combating goods smuggling and attracting domestic and foreign investment, especially in disadvantaged areas near the border, strengthening free zones, border markets and fundamental supports of the production by codifying strategies in the field of industry, agriculture, services, etc., can be used in the fight against goods smuggling. The last step in fighting smuggling is police actions, security measures, to penalize, etc. actions applied by custom to deal with this economic destructive phenomenon are as follow:

1. To expedite handling the cases of smuggling and sent them to the court as soon as possible.
2. To install physical control equipment in the customs ports such as truck, palette XRAY machine, closed circuit television, etc.
3. To view full endorsement of the products listed by assessors and a brief evaluation in cases where there is no history of the value and installation and implementation of judicial software and reviewing of the assessment of the relevant jurisdiction and evaluating the unit in the relevant field by assessors.
4. To access and communication system to the cited assertions by scanning it and complete investigation
5. To obtain the goods baling in the assertions and investigate the goods whose specifications are fully put in the customs permit
6. To train the police and describe the relevant customs laws and documents, also, if the forces are provided in the customs, employing the assessors of the customs in the bottlenecks can be studied and assessment of the goods suspected of smuggling according to the documents leads to expediting the matters and reducing the volume of operation. In this process, the preventive aspects of customs and smuggled goods in the suspended state have been more analytically but usefully

indicated. Accordingly, in this paper the following scientific questions and hypotheses have been proposed :

### **Research questions**

1. What is the legal position of nature and prevention aspects of goods and currency smuggling in the new draft bill?
2. What damages would the goods smuggling of the customs (economy destroyer) bring about to the economic body of the society?
3. What is the performance bond of goods smuggling of the customs from the perspective of Iranian rights?

### **Research Hypotheses**

H1: The nature of smuggled goods and currency, importing goods into the country or exporting goods from the country are unauthorized in the new draft bill.

H2: The programs and policies of economic development have been damaged and hampered by destructive phenomenon of smuggling.

H3: Executive authorities of the judicial policy are responsible to create multiple criminal performance bonds with different financial and frightening natures.

### **Smuggling in the customs regulations and laws**

Smuggling is a Turkish word which means to ferret out in Persian. It also means taking away illegally and those which have been banned to import the country or its transaction by the government (Dehkhoda, 1993). However, according to Paragraph 1 of Article 29 of the Customs Law, smuggling means importing goods into the country or exporting goods from the country illegally. In general terms, any banned or prohibited goods to import or transaction are called smuggled which can be all kinds of merchandise and food and medicines and fuel and etc. Smuggling is a customs violation and includes handling goods in a secret way along the customs border in order to evade customs supervision (according to the Nairobi Convention) (Banaei, 2005). In the Budget Act in 2002, the Parliament members defined smuggling as the goods being imported or exported to or from the country away from official borders (customs) without legal formalities, input rights, and customs duties. Two major groups are involved in smuggling:

The first group consists of people who participate in smuggling due to cultural, economic, and social poverty, unemployment and inability to support their lives and bad and improper economic and social conditions make them to endure all kinds of hardships of this phenomenon.

The second group consists of profiteers who create terrible mafia through using the rents and administrative systems in the community and by using the windfall money not only the economy and national production will be their targets but also they try to modify the culture and politics of the society based on their interest and facilitate the economic destructive approach to provide their own interests whose effects are visible in the areas in which most people do not have appropriate political growth and according to the elites, the society is under the influence of their economic power.

Lack of economic development and employment opportunities, employment and unemployment and inability to support the family are the main reasons for developing this ominous economic phenomenon in the regions and provinces on the border in the first group. Economic development and job creation and cultural development of the region are the best solution to fight this phenomenon which minimizes the growth rate of unemployment and illegal activities trend. Otherwise, unemployment and frustration of inability to provide the minimums for families can

lead the individuals to the crime, robbery and murder with financial incentives in order to obtain the minimums required for their lives.

### **Theoretical foundations of customs smuggling in Iran's regulations**

To discuss the causes of the smuggling emergence and spreading as an illegal economic activity and the foundation and framework to study the subject, institutional approach to the economy, according to its characteristics is more suitable. From the institutional economists' point of view, different economic performances over time are mainly influenced by the change in the institutions. In this attitude, institutions include any limitation constituted to shape their mutual relations by human. Institutions can be formal such as the rules and regulations, or be informal such as customs. Based on this approach, a mix of informal norms, laws and their executive characteristics identify individuals facing choices and leads to economic performance. Based on the above theory, smuggling can be defined as not following the formal rules (constraints) in official foreign trade activities. In such a framework, the main causes of the development of smuggling are classified as follow:

- Institutions or formal constraints ( rules and current regulations and how to implement them);
- Characteristics of the economic environment (such as macroeconomic conditions, income distribution, employment and unemployment, regional inequalities, etc.);
- Other environmental factors including social, cultural, political and geographical areas (such as respecting the law, considering illegal activities as the abnormal or normal issues, compatibility of formal or informal constraints, government social acceptance, existence of powerful government and geopolitical condition of the country).

In fact, this combination of factors is the decision-making framework of individuals and firms in selecting activities in different areas and directs them towards activities within or outside of the formal legal orders. Firms or individuals activities outside the formal framework and legal restrictions are considered as smuggling.

### **Various ways of smuggling customs goods**

Smuggling can be done in several ways to exit the entry form can be noted in two important, in the terms of entry and exit two important ways can be pointed:

- Smuggling from or unofficial ports or outside of the customs authority. As importing and exporting all types of authorized and unauthorized goods through land, aerial, and sea borders to Iran. This method is the most popular among all types of smuggling. It must be said that the black figure of this type of smuggling is lower than other methods.
- Smuggling of goods through official ports or the customs which is not apparently, and according to some officials possible in this way. Of course, this statement may be interpreted as a distinction between smuggling and customs, because in these cases the black figure usually is too high.

### **Punishments for goods and currency smuggling in the former and new laws of goods and currency in 2013**

#### **a) Answers related to the past and current laws**

##### ***1. Criminal law for smuggling legislated in 1927***

This law was passed in a single article, which is: smuggling criminals due to financial income subject to the government and also those import prohibited goods to the country will be

sentenced correctional imprisonment from eight days to two years. The above sentence can be substituted by paying one Toman for each day.

## ***2. Criminal law for smuggling legislated in 1928***

The law passed by the parliament in that time was written in 12 articles. Article 1 of the law states that: everyone commits smuggling in financial income subject to the government or its derivatives, whether the income is legislated or based on particular law or it was considered and legislated with the total budget of the country. In addition to return the assets or pay its value, it will be sentenced to pay double benefits which the government arranged to obtain and correctional prison of three months to two years.

## ***3. Criminal law for smuggling legislated in 1933.***

As it was said, this law and the following corrections were the most completed law in this regard. No laws about smuggling were legislated after this law by the parliament. Article 1 of the law states that “everyone commits smuggling in financial income subject to the government or its derivatives, whether the income is legislated or based on particular law or it was considered and legislated with the total budget of the country”. In addition to return the assets or pay its value, it will be sentenced to pay double benefits which the government arranged to obtain and correctional prison of three months to two years. As it can be seen, some punishments are considered for this crime. It should be noted that punishments were considered for the beginning and committing the crime, smuggling, as well which was happening for the first time.

## ***4. The law of the government suspends about goods and currency smuggling legislated by expediency Council in 1995.***

As it was mentioned, this law was legislated after numerous discussions in relation to smuggling and also its abundance and prevalence of this phenomenon in society which has its own drawbacks. In this law, the punishment for the crime was determined once which is about transporting the smuggling goods, probably due to not being considered as a crime in the past.

## ***5. The new Customs Law legislated in 2011.***

Article 56 of the law states that if it is seen that the seal of the goods has gone while controlling the goods to export, Customs and the representative of the shipping company or driver transporting the parcel, the package will be controlled and checked with the passing license. The goods will be permitted to export if no disputations are seen and their guarantee will be canceled. If the seal of the goods has gone deliberately and parcels or packages get opened, it is a crime treated as smuggling.

### **b) Relevant criminal responses in the draft bill to combat goods and currency smuggling**

As it was stated, the draft bill of goods and currency smuggling after 80 years of the last legislation of law in this area, was legislated in the Islamic Consultative Assembly and sent to the Guardian Council. This council found some drawbacks in this law, but despite Guardian Council objections which were negligible in compare to the total volume of the law, the objections have not been resolved. This draft bill is more beneficial in compare to other laws. It is important to bear in mind that in this law the only punishment for smuggling of goods is fine which is good in some aspects and bad in other aspects. The good aspects are to avoid imprisonment penalty for goods smuggling made the prisons full of criminals. The bad aspects are only to fine which leads to double standard in treating the rich or poor offenders and finally sending the poor ones to the jails. In this law, it was indicated that the vehicles carrying smuggling goods will be seize based on the value of the goods which is interesting. In this article in addition to the goods and currency smuggling some parts are also allocated for smuggling the prohibited goods and the offenders are sentenced to certain



penalties. In this law, punishments are also determined for smuggling of organized crimes is the law to punish which is an innovative action.

### Conclusion

Iran Customs is responsible for running the economic and trade policies in the official borders. The customs is not currently an only administrative organization and the supplier of the government's revenue sources, but is considered as the factors affecting the process of increasing foreign investment, development, technology transfer, protection of national nascent industries, setting the market of supply and demand, price stability, creating balance in payment, in the country by its monitoring and control functions. The nature of Customs duties is such that they require interaction with other agencies responsible for implementing the provisions of the relevant Directives and various instructions. According to the law, importing and exporting the goods should be done under the supervision and in the presence of customs officials and if the goods get exported or imported into the country without customs formalities, or contrary to the laws and customs regulations is called smuggling. The smuggling of goods in our country, in addition to bad economic impact is important as an economic and social challenge. Today, this phenomenon in addition to being a serious threat to the free trade imposes high costs on the country's economic structure. Smuggling on the one hand reduces the government tax and customs revenues and on the other hand leads to the exit of unproductive exchange, massive capital flight, rising unemployment, reducing domestic industrial products, and etc. In a healthy economy, all economic activities are recorded, but a bunch of economic activists are not willing to do so, hence it leads to the formation of the underground economy or black economy. The most important examples of the underground economy are the phenomena of goods and currency smuggling that hampers economic information system and brings about difficulty in economic decisions making and makes the policies lose their effectiveness. Given that smuggling is a multifaceted phenomenon, so many factors including economic, social, cultural factors etc. play roles in its formation. The identification of these factors helps to provide a solution for dealing with this ominous economic and social phenomenon.

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